

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
 FOR THE COUNTY OF YAVAPAI

2011007-3 PM 1:48

CLERK

STATE OF ARIZONA,

Plaintiff,

vs.

STEVEN CARROLL  
 DeMOCKER,

Defendant.

Case No. P1300CR2010001325

*Jacqueline Hanchman*

08:07:13AM

REPORTER'S TRANSCRIPT OF PROCEEDINGS  
 BEFORE THE HONORABLE WARREN R. DARROW  
 CASE MANAGEMENT CONFERENCE

JUNE 6, 2011

Camp Verde, Arizona

**ORIGINAL**

REPORTED BY  
 MINA G. HUNT  
 AZ CR NO. 50619  
 CA CSR NO. 8335

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1 Proceedings had before the Honorable  
2 WARREN R. DARROW, Judge, taken on Thursday,  
3 June 16, 2011, at Yavapai County Superior Court,  
4 Division Pro Tem B, 2840 North Commonwealth Drive,  
5 Camp Verde, Arizona, before Mina G. Hunt, Certified  
6 Reporter within and for the State of Arizona.

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08:07:11AM

1

## P R O C E E D I N G S

08:07:11AM

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THE COURT: P1300CR2010001325, and a case

08:07:21AM

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that's technically dismissed but still has records

08:07:27AM

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issues, P1300CR20081339, State versus Steven

08:07:33AM

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Carroll DeMocker. He is present represented by

08:07:36AM

6

Mr. Williams. Mr. Young is here for the state. I

08:07:39AM

7

think on the phone should be the follow people:

08:07:47AM

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Greg Parzych.

08:07:49AM

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MR. PARZYCH: I'm here, Your Honor.

08:07:51AM

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THE COURT: And Chris Moeser?

08:07:53AM

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MR. MOESER: I'm here, Your Honor.

08:07:57AM

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THE COURT: Okay. Thank you.

08:07:57AM

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MR. YOUNG: Your Honor, Mr. Paupore is also

08:08:00AM

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telephonic.

08:08:01AM

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THE COURT: Jeff Paupore, are you there?

08:08:04AM

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MR. PAUPORE: Good morning, Your Honor.

08:08:07AM

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THE COURT: Good morning.

08:08:07AM

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This won't be a lengthy conference

08:08:11AM

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because there is a pending motion, and there is not

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a whole lot to discuss with that motion there. The

08:08:18AM

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reply isn't done. There is a motion relating to

08:08:23AM

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that having to do with discovery I want to talk

08:08:26AM

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about.

08:08:29AM

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So the discussion of the questionnaires

08:08:31AM

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isn't going to be very detailed. I just want to

08:08:35AM 1 see if anybody has a drastically different idea.  
08:08:39AM 2 But that's so contingent, I don't want to spend a  
08:08:43AM 3 lot of time on that because of the pending motion.  
08:08:45AM 4 Everyone knows what motion I'm talking about.  
08:08:47AM 5 The other thing has to do with the  
08:08:49AM 6 records, if we can call it that.  
08:08:52AM 7 And, Mr. Moeser, that's probably the only  
08:08:56AM 8 thing you're concerned with. And we can discuss  
08:09:01AM 9 that. And I have an initial ruling out. And if  
08:09:04AM 10 anybody has any particular concerns about that.  
08:09:06AM 11 I've indicated that I did not want to have changing  
08:09:12AM 12 of status of records until after the questionnaires  
08:09:16AM 13 go out at this point. It would be fairly close if  
08:09:20AM 14 that happens anyway. And I didn't see any reason  
08:09:22AM 15 at this point and given all the procedural matters  
08:09:26AM 16 in the case to accelerate that any.  
08:09:30AM 17 I think people need time to look at that,  
08:09:33AM 18 decide what the approach is going to be to ask for  
08:09:36AM 19 the records. There can be some significance cost  
08:09:40AM 20 relating to redaction. That has to be dealt with.  
08:09:42AM 21 But if we can just address that first. Again, I  
08:09:44AM 22 think that's the only thing Mr. Moeser is concerned  
08:09:47AM 23 with.  
08:09:47AM 24 Mr. Moeser?  
08:09:48AM 25 MR. MOESER: Your Honor, that's right. I

08:09:50AM 1 think that is the only issue I'm here on today.  
08:09:53AM 2 The only question I had -- thank you for the  
08:09:56AM 3 ruling. The only question I had about the ruling  
08:10:00AM 4 is generally it seems we've talked about, I think,  
08:10:02AM 5 four general categories of records.

08:10:05AM 6 I wondered whether that first category  
08:10:07AM 7 that related to just the financial concerns, the  
08:10:10AM 8 extent that those are going to be released. If  
08:10:12AM 9 those could be released sooner rather than --  
08:10:15AM 10 earlier than the July 15 deadline if that would be  
08:10:19AM 11 possible. Mainly for the reasons that those  
08:10:22AM 12 records, given the Court's concerns about the  
08:10:27AM 13 empaneling of the jury and the jury pool, those  
08:10:29AM 14 records may be the least impactful on the issues.  
08:10:34AM 15 I just thought I would make that request.  
08:10:37AM 16 Otherwise I think that's the only concern we have  
08:10:41AM 17 at this point.

08:10:41AM 18 THE COURT: I'll ask the parties if they want  
08:10:44AM 19 to address it.

08:10:44AM 20 Mr. Young or Mr. Paupore?

08:10:47AM 21 MR. PAUPORE: Your Honor, I'll address it.  
08:10:50AM 22 The state has no objection to Mr. Moeser's request.  
08:10:53AM 23 And the state appreciates the Court's ruling on the  
08:10:57AM 24 sealed and ex parte documents. It's obvious that  
08:11:02AM 25 you spent a lot of time.

08:11:03AM

1

And I read your order, Your Honor. There

08:11:06AM

2

is still some other pending issues that you have

08:11:12AM

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not ruled on yet, and that's forthcoming. But

08:11:15AM

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other than that, the state does not have an

08:11:18AM

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objection.

08:11:19AM

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I would like to let the Court know that

08:11:23AM

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in case we get close to the 9:00 o'clock hour, I

08:11:24AM

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have to leave for another hearing. And so I'd like

08:11:26AM

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to let the Court know at this time that I may not

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be here for the full hearing.

08:11:31AM

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THE COURT: This goes for Mr. Moeser too. I

08:11:35AM

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don't anticipate this hearing is going to go

08:11:37AM

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anywhere close to 9:00 o'clock. But just feel free

08:11:40AM

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to excuse yourselves. Politely interrupt, I guess.

08:11:44AM

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You don't need to sit longer. But --

08:11:48AM

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Then, Mr. Williams or Mr. Parzych?

08:11:55AM

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MR. WILLIAMS: I believe Mr. Parzych should

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probably answer this, Judge.

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THE COURT: Okay.

08:11:58AM

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MR. PARZYCH: Judge, I would just prefer to

08:11:59AM

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wait until the questionnaires go out. As I read

08:12:02AM

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that ruling as regards to the 15.9 application, I

08:12:04AM

23

think the Court going to the full map knows where

08:12:08AM

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experts have not been elicited, potential

08:12:11AM

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witnesses; and we are still -- Mr. Williams and I

08:12:13AM 1 are still sorting out which ones are coming and  
08:12:16AM 2 which ones are coming out. If you wait until that  
08:12:18AM 3 questionnaire, we should be able to have that  
08:12:20AM 4 sorted out by then.

08:12:21AM 5 THE COURT: Okay.

08:12:22AM 6 Mr. Moeser, it's June 16. And I'm just  
08:12:29AM 7 inclined to stick with that time. Of course, if  
08:12:36AM 8 there are specific requests, there is a procedure  
08:12:41AM 9 for that. I appreciate that people, I think, have  
08:12:43AM 10 been quite cooperative with the Court in looking at  
08:12:46AM 11 the various things that have happened, the unusual  
08:12:50AM 12 circumstances, the volume. And I certainly express  
08:12:53AM 13 my appreciation for the approach. I do.

08:13:00AM 14 So I understand there are these  
08:13:01AM 15 procedures too. And I will deal with that or the  
08:13:04AM 16 presiding judge under the rule. But -- that would  
08:13:11AM 17 be my inclination, Mr. Moeser, at that point.

08:13:13AM 18 MR. MOESER: Okay. Thank you, Your Honor.  
08:13:15AM 19 Again, what the state says, we appreciate there  
08:13:21AM 20 were a lot of documents here to review. And we  
08:13:24AM 21 appreciate the Court's attention to dealing with  
08:13:27AM 22 this issue.

08:13:28AM 23 THE COURT: Thank you. So I think the order  
08:13:32AM 24 is there. And specific -- more specific requests  
08:13:35AM 25 can come in. There are some -- there will be some



08:13:40AM 1 real concerns, as I said, with regard to potential  
08:13:44AM 2 redactions perhaps. And there are some juror  
08:13:48AM 3 records. I don't know how interested people are in  
08:13:51AM 4 those.

08:13:52AM 5 But the order is in place. And I don't  
08:13:56AM 6 have anything more than that myself.

08:13:59AM 7 Anything else from Mr. Moeser?

08:14:01AM 8 MR. MOESER: Nothing further, Your Honor.

08:14:03AM 9 THE COURT: Okay. Thank you.

08:14:04AM 10 And the next thing I'd like to address,  
08:14:08AM 11 then, has to do in the pending case, the 2010 case.  
08:14:14AM 12 And it's the motion for -- let me get the motion  
08:14:19AM 13 out -- the request for disclosure. There was a  
08:14:24AM 14 request for an expedited ruling just on the 3rd, so  
08:14:32AM 15 it's coming up on two weeks.

08:14:35AM 16 And Mr. Young or Mr. Paupore, I'm going  
08:14:41AM 17 to give you my view of this. Obviously, it's of  
08:14:46AM 18 concern if -- regardless of the position of the  
08:14:49AM 19 parties on 15.9 and the appropriateness of ex parte  
08:14:56AM 20 proceedings -- I talked a little bit about that in  
08:14:59AM 21 that ruling on the records -- 15.9 contemplates in  
08:15:06AM 22 some situations protection of work product type  
08:15:10AM 23 information. Certain people do not have to be  
08:15:12AM 24 disclosed. And it would be of concern if the  
08:15:16AM 25 attorneys have access to that despite the argument.

08.15.21AM

1

I see this as a very important issue.

08:15:24AM

2

And I really want to have the factual background.

08:15:28AM

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In light of that, what is your position

08.15:31AM

4

on the request for disclosure, Mr. Young or

08:15:34AM

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Mr. Paupore?

08:15:35AM

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MR. PAUPORE: Your Honor, I'll address that.

08 15:37AM

7

I forgot to mention when we started out, present on

08:15:41AM

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this end of the telephone line is Detective Doug

08:15:47AM

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Brown, Paralegal Rhonda Grubb and victim advocate

08:15:50AM

10

Marie Higgins.

08:15:53AM

11

Your Honor, the Rule 15.9 is a very

08:15:56AM

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important issue. State understands that it

08:16:03AM

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contemplates a certain level of protection.

08:16:07AM

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Rule 15.9 is also set up like any other motion in

08:16:14AM

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criminal procedure to give the opportunity to

08:16:17AM

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respond and have notice to the other side.

08:16:22AM

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That was not done in this case. We to

08:16:27AM

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this day do not know how so many ex parte

08:16:34AM

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proceedings were permitted. I know that is really

08:16:38AM

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part of the motion to dismiss, and there has been

08:16:41AM

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responses, and the defendant has yet to file his

08:16:45AM

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reply, which is due tomorrow. So I'm not going to

08:16:49AM

23

get into it too much. But we do fully understand

08:16:52AM

24

the importance of the issue.

08:16:56AM

25

The comment on that is the State strongly

08:17:05AM

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believes that previous trial judge did not follow

08:17:10AM

2

the proper procedures in holding ex parte hearings.

08:17:17AM

3

At the very initial 15.9 motion and every one

08:17:22AM

4

thereafter, we believe, did not comply with the

08:17:26AM

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rules and the law, as I understand it.

08:17:29AM

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Now, getting to the issue of defense's

08:17:33AM

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motion for additional disclosure. And in the

08:17:39AM

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pleadings that are at issue on that matter, I would

08:17:45AM

9

like to point out to the Court that the defendant

08:17:48AM

10

is incorrect in his reply where he states the state

08:17:53AM

11

has requested an evidentiary hearing. The state

08:17:57AM

12

did not request an evidentiary hearing in it's

08:18:01AM

13

response to the motion to dismiss.

08:18:03AM

14

The state's position is that the

08:18:04AM

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evidentiary hearing only happens if, and in the

08:18:10AM

16

state's mind it's a big "if," if the defendant can

08:18:13AM

17

show significant prejudice to his constitutional

08:18:18AM

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rights and they were violated.

08:18:20AM

19

The state has taken the position and

08:18:23AM

20

argues that the defendant cannot show prejudice for

08:18:28AM

21

the viewing or printing of the subject documents.

08:18:32AM

22

And if they can't, if the defendant cannot show

08:18:35AM

23

prejudice, you do not get to the second prong

08:18:39AM

24

requiring an evidentiary hearing.

08:18:43AM

25

At issue on the 15.9 documents were --

08:18:49AM

1

were viewed as admitted in pleadings by staff of

08:18:54AM

2

the county attorney's office. And some of those

08:18:58AM

3

documents that were viewed were disclosed and in

08:19:01AM

4

some cases on the very same day that the ex parte

08:19:04AM

5

hearing was happening. So I don't believe -- I

08:19:08AM

6

don't believe there was any violation of the

08:19:13AM

7

attorney/client privilege or the defendant's right

08:19:15AM

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for a fair trial. And I think the defendant has a

08:19:19AM

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heavy burden to prove that prejudice.

08:19:23AM

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The other issue that I'd like to address

08:19:27AM

11

in the instant motion are the dastardly allegations

08:19:34AM

12

from the defendant, whether or not based on

08:19:39AM

13

articulable facts. Allegations like widespread,

08:19:42AM

14

clandestine attacks or murky, misleading,

08:19:47AM

15

self-serving statements. That was reference to the

08:19:50AM

16

Jarrell report. And illegal investigation

08:19:52AM

17

operation.

08:19:53AM

18

None of these very serious and vitriolic

08:20:02AM

19

allegations are supported by any facts. The staff

08:20:08AM

20

members and one attorney in the county attorney's

08:20:12AM

21

office viewed and printed some of the subject

08:20:14AM

22

documents. This is uncontested. However, there is

08:20:18AM

23

no proof, not a single fact, supporting at any time

08:20:25AM

24

some type of conspiracy. No proof of an agreement

08:20:30AM

25

that is followed by an overt act on behalf of the

08:20:32AM

1 county attorney's office. And the reason there are  
2 no facts or proof is because they do not exist.

08:20:35AM

08:20:40AM

08:20:43AM

08:20:46AM

08:20:49AM

08:20:52AM

08:20:56AM

08:21:00AM

08:21:08AM

08:21:12AM

08:21:17AM

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08:21:36AM

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08:21:51AM

08:21:51AM

08:21:55AM

08:21:59AM

08:22:03AM

08:22:07AM

08:22:11AM

3 The defense attorneys need to be more  
4 careful and specific with their choice of words  
5 that they cannot support by facts. If you look at  
6 the Jarrell report, throughout the report at least  
7 half of the staff that viewed or printed the  
8 subject documents stated they were not directed by  
9 anybody to do a search or to look at any sealed,  
10 court-ordered documents or the 15.9 sealed  
11 documents. Not a single one was directed that way.

12 And so without some facts, some basis,  
13 that the defense could point to, the state  
14 maintains they are not entitled to the information  
15 requesting the laundry list of the employees'  
16 duties. Although those are already spelled out.  
17 Or when they held a duty or began a certain task.  
18 All of those facts are in the Jarrell report  
19 already.

20 There is a supervisor, Pam Moreton, in  
21 the Jarrell report, who supervised employees. And  
22 she indicated that no one directed her in the  
23 county attorney's office to do anything such as an  
24 attempt to spy on the defense. That allegation is  
25 simply baseless, void of fact.

08.22.15AM

1

And to request information of each

08.22.23AM

2

employer's supervisor, each attorney, decide what

08.22.30AM

3

division, that information isn't going to get to

08.22.32AM

4

the issue of prejudice on the viewing and printing

08.22.35AM

5

of the documents. It just is simply a fishing

08.22.40AM

6

expedition. And it really is not necessary for the

08.22.45AM

7

defense to prove it's case on whether or not he was

08.22.49AM

8

prejudice or his attorney-client privileges were

08.22.52AM

9

violated.

08.22.52AM

10

The state does not believe on another

08.22.54AM

11

issue that this is Brady material. According to

08.22.59AM

12

Brady, there is a duty placed on a prosecutor in a

08.23.02AM

13

criminal case. It's an affirmative duty to

08.23.05AM

14

disclose any evidence material to guilt or

08.23.08AM

15

punishment which is favorable to the accused. None

08.23.12AM

16

of this information requested falls under that

08.23.15AM

17

category. And I simply do not believe it's a Brady

08.23.18AM

18

issue.

08.23.19AM

19

And finally, Your Honor, during the

08.23.24AM

20

subject times I was assigned prosecutor to this

08.23.32AM

21

case. In conjunction with that responsibility, I

08.23.35AM

22

was also the Prescott trial supervisor for all of

08.23.40AM

23

the Prescott prosecuting -- criminal prosecutors.

08.23.45AM

24

I can make this avowal to the Court: As

08.23.47AM

25

a supervisor and officer of the Court, it was never

08:23:54AM

1

a discussion between myself and Mr. Butner or

08:23:58AM

2

anyone on the prosecution team or with any staff

08:24:02AM

3

member or any other attorney in the office, of any

08:24:06AM

4

kind of an agreement, a plan or a scheme to spy on

08:24:13AM

5

the defense team.

08:24:15AM

6

No staff member was ever ordered,

08:24:18AM

7

requested, suggested or hinted in any way to seek

08:24:22AM

8

out sealed ex parte records. It was never

08:24:26AM

9

discussed, and it never happened.

08:24:29AM

10

The court-ordered sealed documents is a

08:24:32AM

11

different issue. Being a prosecutor on the case, I

08:24:38AM

12

was in court. I helped draft pleadings on every

08:24:46AM

13

single document that was sealed by the Court. And

08:24:52AM

14

that -- because the prosecution team was permitted

08:24:59AM

15

to view the documents, any allegation that that was

08:25:08AM

16

somehow spying on the defense is simply without

08:25:11AM

17

merit.

08:25:12AM

18

The prosecution was -- team was there

08:25:15AM

19

every step of the way. And to suggest that this

08:25:20AM

20

was somehow a clandestine, covert act of spying is,

08:25:28AM

21

again, without merit.

08:25:30AM

22

The state really does not believe the

08:25:33AM

23

defense needs the information it is requesting.

08:25:41AM

24

80 percent of it has already been provided to them.

08:25:45AM

25

They can -- their reply given the hour of the day

08:25:52AM

1 should be pretty much complete by now.

08:25:54AM

2 And this extra information is not going

08:25:57AM

3 to help them meet the burden of prejudice. And the

08:26:00AM

4 state would ask the Court to deny this request.

08:26:08AM

5 Thank you, Your Honor.

08:26:10AM

6 THE COURT: We started with Mr. Paupore. But

08:26:14AM

7 I really want to get down to fundamental issues. I

08:26:18AM

8 don't want to have a sublitigation about this. I

08:26:22AM

9 have in my own mind what probably is important to

08:26:25AM

10 know.

08:26:25AM

11 But, Mr. Williams.

08:26:26AM

12 MR. WILLIAMS: Thank you, Judge. It's

08:26:29AM

13 interesting that the state says that we don't

08:26:31AM

14 support anything by facts. But then they want to

08:26:35AM

15 prevent us from getting facts. That's just

08:26:40AM

16 illogical.

08:26:50AM

17 And it's public record who works at the

08:26:53AM

18 county attorney's office. What we don't know as

08:26:55AM

19 the defense team and can't know is who worked for

08:26:59AM

20 whom when. And it's unduly burdensome on us to

08:27:04AM

21 have to go and recreate that when the state can

08:27:06AM

22 simply supply it. We're not asking for people's

08:27:11AM

23 Social Security numbers or their bank accounts or

08:27:13AM

24 anything that's unduly burdensome on the state or

08:27:16AM

25 invasive.



08:27:16AM

1

We're asking who worked for who. In

08:27:19AM

2

their Jarrell report -- I think I'm right on

08:27:23AM

3

this -- only 9 of 16 people were identified as

08:27:26AM

4

working anywhere in particular. That's just a

08:27:29AM

5

little over half. And even that, I think, was

08:27:33AM

6

pretty murky.

08:27:34AM

7

So no. I don't agree with the state at

08:27:36AM

8

all. First of all, I don't think we've been

08:27:38AM

9

vitriolic at all. I mean, we have two published

08:27:41AM

10

reports that name names. So we want to know who

08:27:44AM

11

these people work for. I think it's absolutely

08:27:47AM

12

germane to our arguments.

08:27:50AM

13

So I filed two pleadings on it, Judge.

08:27:52AM

14

Rules 15.1 and 15.6 weren't addressed by the state.

08:27:56AM

15

I think they absolutely require the disclosure of

08:27:59AM

16

this if this court's not inclined to follow the

08:28:01AM

17

Brady. Brady does cover punishment issues.

08:28:08AM

18

As I pointed out, we need to know work

08:28:11AM

19

assignments for the employees past and present,

08:28:14AM

20

secretaries, paralegals, attorneys, victim witness

08:28:17AM

21

advocates. And the idea that just because

08:28:20AM

22

something is sealed that everybody at the county

08:28:21AM

23

attorney's office or every police officer involved

08:28:24AM

24

in the case has carte blanche to go in and get

08:28:27AM

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sealed records is preposterous.

08:28:30AM

1

Employee supervisors, which attorney or

08:28:32AM

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attorney group they were working with and what

08:28:34AM

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division they were assigned to. It's not unduly

08:28:39AM

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invasive information. If the Court wants facts and

08:28:44AM

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we want to put facts in writing, well, then, we

08:28:46AM

6

need those facts.

08:28:48AM

7

And for the county attorney to prevent us

08:28:50AM

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from having the facts really based on nothing other

08:28:53AM

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than we don't want to give it to them, which is the

08:28:57AM

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only argument I'm really hearing -- they don't give

08:29:00AM

11

me any case law. They don't give me any citation

08:29:04AM

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or a statute or rule that says we're not entitled to

08:29:06AM

13

this information. And where it's public record,

08:29:08AM

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they ought to be giving it to us.

08:29:13AM

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THE COURT: What is it that the defense

08:29:18AM

16

believes, Mr. Williams, really needs to be

08:29:21AM

17

discovered. What's the ultimate fact you're

08:29:24AM

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looking to see one way or the other?

08:29:26AM

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MR. WILLIAMS: Page 2 of five is what I want.

08:29:31AM

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THE COURT: You've got your detailed request

08:29:34AM

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there. But let's look at what the basic issue is.

08:29:38AM

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Isn't it really what people knew -- who knew the

08:29:43AM

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information? Specifically isn't it important, in

08:29:49AM

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your view, to know whether the actual litigating

08:29:53AM

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attorneys knew who were listed in the 15.9

08:29:59AM

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documents?

08:30:02AM

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MR. WILLIAMS: True. I understand that --

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THE COURT: Isn't that the main thing really?

08:30:06AM

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MR. WILLIAMS: I understand that, Judge. But

08:30:08AM

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I think we have a situation where we have plausible

08:30:13AM

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deniability going on, which is the upper rungs of

08:30:15AM

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the county attorney's office has the lower rungs

08:30:17AM

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doing the work and the upper rungs saying, jeez.

08:30:20AM

9

We didn't know. How could we have known people are

08:30:22AM

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looking at ex parte documents and printing them?

08:30:25AM

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And then the second part of that

08:30:26AM

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argument, which is equally preposterous, which is

08:30:30AM

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that the defense can't show prejudice. Of course,

08:30:32AM

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we can't show prejudice because nobody is ever

08:30:35AM

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going to tell us the truth if they won't even tell

08:30:38AM

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us who was working for who.

08:30:40AM

17

THE COURT: Well, I read the Jarrell report

08:30:43AM

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when the motion was filed. And I saw who made

08:30:47AM

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statements and what statements were made.

08:30:49AM

20

But, Mr. Paupore, you indicated right now

08:30:52AM

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you had an avowal that there was no type of plan to

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spy or anything like that. But did the litigating

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attorneys know who the consultants were who were

08:31:05AM

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listed in the 15.9 documents? Did the prosecution

08:31:08AM

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lawyers know that?

08:31:10AM 1 MR. PAUPORE: No, Your Honor. We did not  
08:31:13AM 2 know. And Mr. Butner and I did not -- in any  
08:31:18AM 3 discussions with any of the people, according to  
08:31:20AM 4 the clerk's report who viewed or printed the  
08:31:23AM 5 documents, we simply were not aware of it. It was  
08:31:26AM 6 not brought to our attention. And that's why I  
08:31:31AM 7 made the avowal. It just never happened. And --  
08:31:38AM 8 you know -- the --

08:31:41AM 9 THE COURT: I'm sorry, Mr. Paupore. You made  
08:31:43AM 10 the avowal that there was no plan to do it or  
08:31:47AM 11 anything like that. But I think there is  
08:31:51AM 12 apparently, at least with regard to some people, an  
08:31:56AM 13 element of inadvertent discovery of this  
08:31:58AM 14 information. So there doesn't necessarily need to  
08:32:02AM 15 be a plan.

08:32:03AM 16 And you've answered part two, which is  
08:32:05AM 17 you're saying straight out as an avowal, no. The  
08:32:09AM 18 people who were litigating the case on behalf of  
08:32:11AM 19 the state did not know who was consulted by the  
08:32:15AM 20 defense. You're telling me that unequivocally?

08:32:19AM 21 MR. PAUPORE: Unequivocally, Your Honor. I'm  
08:32:22AM 22 telling you that of the 15.9 documents that were  
08:32:24AM 23 viewed, we did receive the initial motion. That  
08:32:27AM 24 was the request to do the closed hearings. Of  
08:32:30AM 25 course, there was no confidential information that

08:32:34AM

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I'm aware of in that pleading that we received.

08:32:36AM

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08:32:42AM

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brought to our attention.

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And, further, we simply didn't have any clue. We did not know it was happening. Now, the staff members probably assumed that we knew what was going on. I don't know. But neither Mr. Butner and I spoke to any staff member about any 15.9 documents. The -- it just never happened.

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Now, our paralegals -- we had two of them doing this process -- did some of the viewing and the printing. But it was not at our direction. And I do not recall at all ever having any conversations about the 15.9 hearings. It just never occurred.

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And to answer Mr. Williams's question, as a supervisor, technically, I was supervisor over all the people who looked at it given my position with the county attorney's office at that time. So he has my name and he has my avowal.

08:34:34AM

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08:34:36AM

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THE COURT: That doesn't end the inquiry necessarily.

08:34:37AM 1 I understand the position, Mr. Williams,  
08:34:38AM 2 on that. Because even without the actual  
08:34:44AM 3 prosecution team knowing, other people can do  
08:34:48AM 4 things, suggest things. And I'm aware of that.  
08:34:52AM 5 And I don't want to get involved with -- well. I  
08:35:09AM 6 just want to get the matter resolved. I don't  
08:35:14AM 7 want --

08:35:14AM 8 This is a serious thing. This was  
08:35:18AM 9 confidential information. Whether that was the  
08:35:22AM 10 right or wrong decision at the time, there was an  
08:35:25AM 11 order, and there is an interpretation under 15.9  
08:35:28AM 12 that would say it would justify. And people can  
08:35:33AM 13 argue about that. And something happened. And we  
08:35:36AM 14 just need to get to the bottom of it and not be  
08:35:38AM 15 defensive about it.

08:35:40AM 16 If it's a point you need to be defensive  
08:35:43AM 17 about it in general, speak in general, then that's  
08:35:47AM 18 an issue too. I'm not going to have people being  
08:35:51AM 19 hassled. I don't want that either. There is  
08:35:55AM 20 enough to do without busy work.

08:35:59AM 21 But it's, basically, a question here of  
08:36:02AM 22 finding out who knew what. And however that can  
08:36:06AM 23 get done with the least amount of distraction,  
08:36:14AM 24 wasted effort, that's how I want to get it done.

08:36:18AM 25 As I said, I don't want to a

08:36:20AM 1 sublitigation. I don't want to have another case  
08:36:22AM 2 going on. I just want the information discovered.  
08:36:27AM 3 I think because of the nature of this  
08:36:29AM 4 problem, because it involves attorneys, having  
08:36:33AM 5 litigation between attorney teams, that's not how  
08:36:40AM 6 the system should work. You need to be  
08:36:45AM 7 forthcoming.

08:36:46AM 8 So I want some ideas. How do we just get  
08:36:50AM 9 to resolve this without a bunch of paperwork and  
08:36:56AM 10 all those things? By "all those things,"  
08:37:00AM 11 interviewing people that don't need to be  
08:37:02AM 12 interviewed, any of that.

08:37:04AM 13 Mr. Paupore, what do you suggest? There  
08:37:08AM 14 have been -- people have viewed confidential  
08:37:15AM 15 information. They have. That was the status of  
08:37:18AM 16 it. And I don't want to take up whether that was  
08:37:20AM 17 right or wrong ultimately or not. And that needs  
08:37:23AM 18 to be explored. And what's the best way to get  
08:37:27AM 19 that done, in your opinion?

08:37:30AM 20 MR. PAUPORE: Thank you, Your Honor. Maybe I  
08:37:32AM 21 sounded defensive, but I really -- it is not the  
08:37:42AM 22 state's position to frustrate or prevent the  
08:37:48AM 23 defense from relevant information that they need  
08:37:52AM 24 to -- that they need for their reply.

08:37:56AM 25 And I really don't see the relevance of

08:37:58AM

1 the information that's being sought as to how it's  
2 going to assist or make the matter clearer.

08:38:03AM

08:38:08AM

08:38:11AM

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3 The people who are identified in the  
4 Jarrell report are the same people who are  
5 identified in the clerk's report. Yes. They  
6 viewed and printed some documents they shouldn't  
7 have. And I think the inquiry ends there because  
8 these staff members were not directed by anyone to  
9 do what they believed and they assumed to be their  
10 job duties. They were simply sitting in front of a  
11 monitor doing -- taking out the information they  
12 needed and moving on to the next document in a very  
13 hurried fashion.

14 I don't know how knowing who their  
15 supervisor is is going to help anything when one of  
16 the supervisors -- two supervisors are in the  
17 Jarrell report -- Pam Moreton and Jack Fields.  
18 Both of them say they were never asked by the  
19 prosecution team to do anything that's alleged to  
20 have been done.

21 So I don't know -- I do like to get this  
22 issue behind us, but I don't see the relevance of  
23 the request.

24 THE COURT: Well --

25 And Mr. Williams --



08:39:32AM

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Mr. Paupore, your view is that this is

08:39:35AM

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not relevant, don't need to look further. And I

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guess that would be something that would be

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factored into ultimately the decision on the motion

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itself.

08:39:43AM

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But, Mr. Williams, you've got a written

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brief here. Let's go through the work assignments

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for employees, item No. 1. When you have that

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information, how would that assist you in what you

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think needs to be done?

08:40:06AM

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MR. WILLIAMS: Well, I don't have the Jarrell

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report in front of me. I suppose I should have.

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But I don't recall -- let me look at this real

08:40:16AM

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quick.

08:40:42AM

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It's going to assist me because when you

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get down to it, on page 19, Deb Cowell listed as a

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YCAO paralegal. It doesn't say who her supervisor

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was. It doesn't say who Jack Fields's supervisor

08:40:56AM

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is because he's a supervisor. But who is

08:40:58AM

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supervising him? I'm assuming that ultimately

08:41:03AM

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Sheila Polk or Dennis McGrane are responsible for

08:41:08AM

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him. But it's really to me so basic and so easy to

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comply with.

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And I feel like it's a little bit wrong

08:41:19AM

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to put the defense on the spot for me to spout what

08:41:22AM 1 my strategies are going to be. I'm asking to go  
08:41:27AM 2 interview people. I'm not asking to have an  
08:41:31AM 3 inquisition on them.

08:41:31AM 4 I just need to know who the heck they  
08:41:33AM 5 worked for and when. To me the whole argument is  
08:41:37AM 6 silly. The county attorney's office issues their  
08:41:39AM 7 own self-serving propaganda report, which,  
08:41:43AM 8 basically, says, jeez. It was an accident, you  
08:41:45AM 9 know, and over two years. That accident happened  
08:41:49AM 10 over two years. Jack Fields's accident happened  
08:41:52AM 11 over 14 months or 12 months 14 times. These are  
08:41:56AM 12 not accidents.

08:41:57AM 13 THE COURT: I'm suggesting maybe the thing to  
08:41:59AM 14 do is interview, perhaps.

08:42:01AM 15 MR. WILLIAMS: Okay.

08:42:02AM 16 THE COURT: Whatever it takes to get to what  
08:42:04AM 17 happened. Mr. Paupore is saying this is a lot of  
08:42:07AM 18 extra work. We shouldn't do it. I think -- and  
08:42:10AM 19 I'm saying the defense is entitled know what  
08:42:13AM 20 happened because information got released that  
08:42:14AM 21 shouldn't have. It got out and about. And the  
08:42:19AM 22 prosecution -- and that's what I want to find out.  
08:42:23AM 23 Giving up strategy and things like this -- see,  
08:42:26AM 24 that's a sublitigation.

08:42:27AM 25 Maybe both sides should be disqualified

08:42:30AM 1 at this point. Maybe they should. If that's how  
08:42:34AM 2 it's going to be. Litigating against the attorneys  
08:42:37AM 3 and you're going to have a fair trial in that  
08:42:39AM 4 context? Goodness sakes.

08:42:42AM 5 MR. WILLIAMS: Judge, the defense did not  
08:42:46AM 6 cause this. So I don't understand how me asking  
08:42:49AM 7 for who supervised when is somehow --

08:42:51AM 8 THE COURT: I'm not blaming anybody. I'm just  
08:42:53AM 9 saying look at what's going on. Stand back and  
08:42:56AM 10 look at what's being litigated here.

08:43:04AM 11 I would like to see cooperation in  
08:43:07AM 12 finding out what happened. To have this in an  
08:43:12AM 13 adversarial posture in a subcase is not appropriate  
08:43:16AM 14 at all.

08:43:17AM 15 And so, Mr. Paupore, are you saying that  
08:43:22AM 16 somehow that giving this information would be  
08:43:24AM 17 onerous or are you just saying it's irrelevant?  
08:43:27AM 18 You're saying it's irrelevant primarily?

08:43:31AM 19 MR. PAUPORE: I'm saying it's not relevant.  
08:43:34AM 20 But really if you can take a look at the Jarrell  
08:43:37AM 21 report, just about every inquiry the defendant is  
08:43:40AM 22 asking for has already been put in there. And that  
08:43:44AM 23 report wasn't made to be self-serving. I disagree  
08:43:50AM 24 with that comment.

08:43:50AM 25 The report was there to -- so that the

08:43:54AM 1 people who were named, they were interviewed and  
08:43:57AM 2 asked them what their duties were. Those duties  
08:44:00AM 3 are spelled out. The time periods of where they  
08:44:02AM 4 worked in the office are spelled out. The reasons  
08:44:06AM 5 why they looked at documents are spelled out. And  
08:44:11AM 6 that's for every single one.

08:44:14AM 7 So I just think it's redundant and not  
08:44:17AM 8 relevant, the information that they're requesting.

08:44:19AM 9 And I don't like litigating this thing  
08:44:23AM 10 any more than anyone else does. But I -- they got  
08:44:26AM 11 the information. And those further questions I  
08:44:30AM 12 don't believe are relevant or necessary. That's  
08:44:32AM 13 just simply where it's at.

08:44:36AM 14 Of course, if this court directs the  
08:44:39AM 15 county attorney's office to do otherwise, of  
08:44:41AM 16 course, we will. It's going to delay the process  
08:44:43AM 17 obviously. But I want to get it behind us. We got  
08:44:48AM 18 more important things to do.

08:44:49AM 19 THE COURT: Well, you're saying it's not  
08:44:51AM 20 protected in any other fashion. Then it's so  
08:44:53AM 21 ordered. It's going to be provided. I tried to  
08:44:56AM 22 come up with some other solutions here. I noted  
08:44:58AM 23 what I think are just general problems of having  
08:45:02AM 24 this kind of thing occur. And there is a trial set  
08:45:06AM 25 less than three months away. But no. We need to

08:45:12AM 1 proceed expeditiously.

08:45:14AM 2 MR. PAUPORE: What are you ordering?

08:45:16AM 3 THE COURT: I'm granting the request for

08:45:18AM 4 disclosure.

08:45:20AM 5 MR. PAUPORE: Specifically, Your Honor, what

08:45:22AM 6 does that mean?

08:45:27AM 7 THE COURT: Looking at page 2 of five, I think

08:45:29AM 8 that's on the reply. I think that contains the

08:45:33AM 9 specific request.

08:45:34AM 10 Correct, Mr. Williams?

08:45:35AM 11 MR. WILLIAMS: Yes.

08:45:37AM 12 MR. PAUPORE: Would the Court be satisfied if

08:45:40AM 13 there was an addendum to the Jarrell report that

08:45:42AM 14 would address those questions that have not been

08:45:45AM 15 addressed with the specific staff members? I'm

08:45:53AM 16 trying to get some direction here, Your Honor, so

08:45:55AM 17 we don't have to have this conversation again.

08:45:57AM 18 THE COURT: It seems to me the questions are

08:45:59AM 19 laid out pretty specifically. So whoever can

08:46:02AM 20 answer those, Mr. Paupore, answers it.

08:46:08AM 21 MR. PAUPORE: Understood.

08:46:10AM 22 THE COURT: Okay.

08:46:12AM 23 MR. PAUPORE: We'll be -- I'm not sure who

08:46:16AM 24 will do it at this moment, but a supplement to the

08:46:21AM 25 Jarrell report will be done by somebody, maybe

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other than Mr. Jarrell because he's not in the state.

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But we'll have those questions to

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Mr. Williams as soon as they can be accomplished.

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I can't promise the Court or the defense it's going

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to happen today or not even happen tomorrow. And

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then we go to the issue of the deadline for the

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reply.

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MR. WILLIAMS: I would ask that you give the

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county attorney a reasonable amount of time to get

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the list together.

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THE COURT: Mr. Paupore, I would like to know

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what you believe to be a reasonable amount of time.

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MR. PAUPORE: I'm not ignoring Your Honor.

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I'm just thinking.

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THE COURT: I understand.

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MR. PAUPORE: I'm looking at the list. I will

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get it out -- I know Mr. Williams knows we have a

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couple heavy days ahead of us. We all have a

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Monday calendar. So to give myself a little wiggle

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room, would Wednesday, the 22nd, be acceptable?

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THE COURT: Yes.

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MR. PAUPORE: And I will try to get it done

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before that. But I know tomorrow and Monday my

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days are very full.

08:47:53AM 1 THE COURT: And what I'm going to do, of  
08:47:55AM 2 course, is extend the time for reply if needed, if  
08:48:00AM 3 requested.

08:48:00AM 4 MR. WILLIAMS: I would request it. I'd say  
08:48:04AM 5 give them until Friday next week, and that way  
08:48:07AM 6 they're not rushed. Because I have an APDA  
08:48:10AM 7 conference I have to go to, so I won't be here the  
08:48:13AM 8 22nd, 23rd, 24th anyway. If they get it in by  
08:48:17AM 9 Friday, then that gives me the weekend to work on  
08:48:21AM 10 it. And I'd ask for my reply to be due the  
08:48:24AM 11 following Friday.

08:48:25AM 12 THE COURT: Okay. So a week from Friday,  
08:48:27AM 13 Mr. Paupore, would be the 24th.

08:48:32AM 14 MR. PAUPORE: Yes, Your Honor.

08:48:33AM 15 THE COURT: And then, Mr. Williams, then you  
08:48:35AM 16 would reply on what day?

08:48:38AM 17 MR. WILLIAMS: The following Friday.

08:48:39AM 18 THE COURT: That would be July 1st.

08:48:39AM 19 MR. WILLIAMS: July 1st.

08:48:43AM 20 THE COURT: For the reply.

08:48:47AM 21 MR. WILLIAMS: Yes, Judge. Thank you.

08:48:50AM 22 MR. PAUPORE: And, Craig, I'll try and email  
08:48:52AM 23 it to you. So if you have your Blackberry at the  
08:48:56AM 24 conference and you get bored at the conference, you  
08:48:58AM 25 can look at it.

08:49:00AM 1 MR. WILLIAMS: Thank you very much.

08:49:03AM 2 THE COURT: In terms of the questionnaire --

08:49:07AM 3 MR. PAUPORE: Excuse me, Your Honor, I'm going

08:49:09AM 4 to have to take my leave at this point.

08:49:10AM 5 THE COURT: Thank you, Mr. Paupore.

08:49:27AM 6 My view of the questionnaire is to find

08:49:29AM 7 hardship and find people who have had exposure to

08:49:35AM 8 the media or other information regarding the case

08:49:37AM 9 such that they would not be able to sit fairly and

08:49:41AM 10 impartially or -- you know -- from some other

08:49:45AM 11 source of information. I think the rest of the

08:49:47AM 12 process should really be handled through normal

08:49:50AM 13 voir dire.

08:49:51AM 14 So I don't want to have an extensive

08:49:53AM 15 questionnaire. I've only used them in one other

08:49:59AM 16 case. It seems, from what I hear, when people have

08:50:05AM 17 questionnaires, they cover the same information

08:50:07AM 18 anyway if they are extensive.

08:50:09AM 19 So that's my view. And I think the

08:50:12AM 20 state -- through Mr. Paupore, the state had no

08:50:15AM 21 objection to it.

08:50:16AM 22 Mr. Williams and Parzych, I don't know

08:50:19AM 23 that I've heard from you on your view of the

08:50:23AM 24 questionnaire.

08:50:24AM 25 MR. WILLIAMS: Judge, my view is that this



08:50:27AM 1 case has a tremendous amount of publicity and  
08:50:31AM 2 people know about it. We're not in the normal case  
08:50:33AM 3 here. This isn't -- we're not trying a drug  
08:50:37AM 4 paraphernalia case. Of course, you wouldn't use a  
08:50:42AM 5 jury questionnaire.

08:50:43AM 6 The case started as a death penalty case,  
08:50:45AM 7 went through a mistrial. And if you just peruse  
08:50:48AM 8 the blogs, there is a tremendous amount of emotion  
08:50:51AM 9 on both sides of the case. So I don't think we can  
08:50:53AM 10 treat this case as your garden variety case.

08:50:58AM 11 I read the Court's questionnaire. And it  
08:51:01AM 12 isn't until the bottom of page 4 out of seven that  
08:51:05AM 13 the Court gets to any kind of factual basis. And  
08:51:08AM 14 then the rest of it is just talking about personal  
08:51:11AM 15 hardship.

08:51:12AM 16 The purpose of a jury questionnaire is to  
08:51:15AM 17 give people the privacy of their homes to be able  
08:51:19AM 18 to speak their minds. And then it gives the  
08:51:21AM 19 attorneys a chance in the privacy of their offices  
08:51:23AM 20 to read these and try to help eliminate potential  
08:51:30AM 21 jurors ahead of time.

08:51:32AM 22 And the defense and the state can work  
08:51:34AM 23 together on that where we can say yes, this person  
08:51:38AM 24 there. You get a stack of them, you go meet  
08:51:40AM 25 together, and we can save a lot of time. My

08:51:43AM

1 understanding from your order is you had planned on  
2 doing a hundred people a day. I just don't think  
3 that's possible.

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4 THE COURT: It can be done in two groups.  
5 I've gone through this process, and it actually  
6 worked quite satisfactorily without having  
7 extensive, voluminous questionnaires. I think it's  
8 more important for the Court and the attorneys to  
9 actually conduct the voir dire face to face. I  
10 think that's a more important process than lengthy  
11 questionnaires that people go over, and we really  
12 need to bring the person in anyway.

13 Maybe in a capital case different  
14 situation. But I think these questions really  
15 do -- you know -- you can really see right away  
16 some people it's not going to work. And other  
17 people, questionable; other people, pretty clear.  
18 At least you can get past the two things that will  
19 eliminate people in cases is exposure and -- well,  
20 in any case is hardship. You don't need to bring  
21 in hundreds of people for a trial of this length.  
22 There are not many, speaking in percentages, who  
23 have months where they can be at trial.

24 Different situation in Maricopa County.  
25 They have a process down there, as I understand it,

08:53:00AM 1 I've been told, by a former judge. They're  
08:53:06AM 2 actually able to go down where the jurors gather,  
08:53:10AM 3 and the Judge and the attorneys, and they have a  
08:53:12AM 4 reporter. And they go around and find out who can  
08:53:15AM 5 be on a three-month trial. So they eliminate a  
08:53:19AM 6 whole bunch of things that we don't have to deal  
08:53:23AM 7 with -- you know -- a lot of people that aren't  
08:53:26AM 8 inconvenienced in that fashion. We don't have  
08:53:28AM 9 that.

08:53:28AM 10 So one function of the questionnaire is  
08:53:31AM 11 just to find out why would you bring in literally  
08:53:35AM 12 in this case dozens and dozens of -- well over a  
08:53:38AM 13 hundred people that -- hundreds of people who  
08:53:41AM 14 wouldn't even have a chance.

08:53:43AM 15 Then the second thing too is where you  
08:53:47AM 16 have the all the media exposure, that's where  
08:53:49AM 17 people will form ideas, and you find that out.

08:53:51AM 18 I don't have a lot of experience with  
08:53:53AM 19 questionnaires beyond that. I know of a judge who  
08:53:57AM 20 conducted a number of trials that involved -- they  
08:54:02AM 21 were capital cases and did not use a questionnaire.  
08:54:06AM 22 A lot of those cases too did not have media  
08:54:10AM 23 exposure either. That's a whole different thing as  
08:54:13AM 24 well.

08:54:14AM 25 So, again, I don't want to talk too

08:54:16AM

1 deeply about this. I did want to get ideas.

08:54:23AM

2 Have you sent a proposed questionnaire to  
3 me.

08:54:25AM

08:54:26AM

4 MR. WILLIAMS: We tried to, and I think there  
5 was -- Chelsea is sitting here. I think we tried  
6 to email, and were told not to, I think. We did  
7 give one to the state, but I will make sure I have  
8 it with me today. I'll copy it and deliver it to  
9 the Court.

08:54:40AM

08:54:44AM

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08:54:44AM

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THE COURT: Because I would like to see. I  
11 mean, of course, we'll look through it. And I  
12 did -- in the other case I looked through the  
13 defense questionnaire. And I'll see what I should  
14 have in mind.

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MR. WILLIAMS: Judge, if I could. The state  
16 was kind enough to give me the motion and the  
17 questionnaire attached for the Court to have a  
18 copy.

08:55:01AM

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08:55:04AM

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08:55:06AM

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08:55:07AM

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THE COURT: Okay.

08:55:22AM

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MR. WILLIAMS: As I said when we discussed the  
21 questionnaire, I'm willing to cut that down. And  
22 I'm not married to -- in fact, it was a draft. And  
23 willing to discuss it with the state and the Court.  
24 So I'm not taking a hard line that I need it to be  
25 37 pages. I would just like a little more

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information than is in the 7 pages.

08:55:40AM

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THE COURT: I need to read through it.

08:55:40AM

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Because I'm not foreclosing anything at all right

08:56:06AM

4

now.

08:56:06AM

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MR. YOUNG: Judge, I may have made some notes

08:56:08AM

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on that. I don't want the Court to be prejudiced

08:56:10AM

7

by my notes. And that's what I'm pointing out to

08:56:11AM

8

Mr. Williams. Judge, we endorse and approve of the

08:56:12AM

9

Court's proposed jury questionnaire. Much of what

08:56:17AM

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Mr. Williams's proposed questionnaire is is dealt

08:56:20AM

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with in in-person voir dire. I agree with the

08:56:23AM

12

Court. That's much more effective seeing them in

08:56:26AM

13

person.

08:56:26AM

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The only things that need to be addressed

08:56:28AM

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in this case in a jury questionnaire are hardship

08:56:32AM

16

and media exposure. Those are dealt with

08:56:34AM

17

effectively in the Court's questionnaire. I think

08:56:37AM

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it would be a waste of time and resources to go

08:56:40AM

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much beyond what the Court has proposed. And

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that's the state's position.

08:56:45AM

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THE COURT: I will look at Mr. Williams's.

08:56:47AM

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And, again, I don't want to discuss this in light

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23

of the pending motion. I just don't want to spent

08:56:52AM

24

a lot of time in it at this point.

08:56:54AM

25

Anything else the parties feel needs to

08:56:56AM 1 be addressed right now, Mr. Young?

08:56:59AM 2 MR. YOUNG: No, sir.

08:57:00AM 3 THE COURT: Mr. Williams?

08:57:00AM 4 MR. WILLIAMS: I know we only have a minute  
08:57:02AM 5 and a half left, Judge.

08:57:03AM 6 THE COURT: Oh.

08:57:04AM 7 MR. WILLIAMS: The Court -- we'd had a hearing  
08:57:07AM 8 on bond. And the Court's never issued a ruling on  
08:57:12AM 9 that. We'd ask the Court issue a ruling on bond.  
08:57:15AM 10 We had a hearing. The Court said it's going to  
08:57:18AM 11 take it under advisement, think about it.

08:57:20AM 12 THE COURT: My impression was that I did. I,  
08:57:22AM 13 basically, left it. I thought I did.

08:57:24AM 14 Mr. Young, do you think there is a --

08:57:28AM 15 MR. YOUNG: Judge, just looking at the minute  
08:57:30AM 16 entry --

08:57:30AM 17 THE COURT: What date, please?

08:57:32AM 18 MR. YOUNG: I believe the date is May 2. Of  
08:57:35AM 19 course, now I've lost my place. It does not  
08:57:38AM 20 specifically spell out in that minute entry, Your  
08:57:41AM 21 Honor. And I believe -- I don't think there was a  
08:57:46AM 22 definitive statement from the Court as far as what  
08:57:50AM 23 the bond would be.

08:57:51AM 24 My recollection -- and Mr. Williams can  
08:57:54AM 25 correct me if he doesn't agree with that -- is that

08:57:57AM 1 you denied the motion to modify release conditions.  
08:57:59AM 2 However, there was some question given the two  
08:58:02AM 3 cases, the fact that, I believe, there is a million  
08:58:09AM 4 dollar bond in one case and a million dollar bond  
08:58:11AM 5 in the other case. One case has been since been  
08:58:14AM 6 dismissed. There is some question as to what the  
08:58:15AM 7 actual bond amount or release conditions are in  
08:58:18AM 8 place at this point, Your Honor.

08:58:20AM 9 THE COURT: I really thought I had addressed  
08:58:22AM 10 that. I'm trying to find it. Counsel, believe me,  
08:58:27AM 11 if you feel something has not been addressed --  
08:58:31AM 12 you've got a number of things going on -- you need  
08:58:33AM 13 to let me know. I mean, I obviously make an effort  
08:58:37AM 14 to.

08:58:39AM 15 MR. YOUNG: Judge, I'm looking at the minute  
08:58:42AM 16 entry dated May 2, 2011, under the heading Bond.  
08:58:48AM 17 It recites Court and counsel discuss bond amounts.  
08:58:50AM 18 Counsel for defendant requests the Court take  
08:58:52AM 19 counsel for plaintiff's position and facts into  
08:58:56AM 20 consideration and come up with a reasonable bail  
08:58:58AM 21 for defendant. And then I don't believe there is  
08:59:00AM 22 any additional record of what the Court has  
08:59:05AM 23 determined.

08:59:05AM 24 THE COURT: Perhaps it is reflected in the  
08:59:17AM 25 dismissed case. That's been something that

08:59:21AM

1

happened here, kind of a blurring of the cause

08:59:28AM

2

numbers. Okay.

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MR. WILLIAMS: So it's a \$1 million bond?

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THE COURT: Whatever is set in 1325 is

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MR. WILLIAMS: Well, we had multiple bonds bouncing around. There was a bond in the other case too. So right now we have one \$1 million bond?

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THE COURT: Is that what -- Mr. Young, what is set in 1325?

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MR. YOUNG: Judge, that's my understanding. If I see something different, I'll file an appropriate pleading with the Court. But that is my understanding.

09:01:01AM

25

THE COURT: I'm confirming the bond amounts in



09:01:03AM

09:01:07AM

1 1325. That's the pending case, and that's the bond  
2 that stands. We're in recess. Thank you.

3 (The proceedings concluded.)  
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1 STATE OF ARIZONA )  
2 COUNTY OF YAVAPAI ) ss: REPORTER'S CERTIFICATE

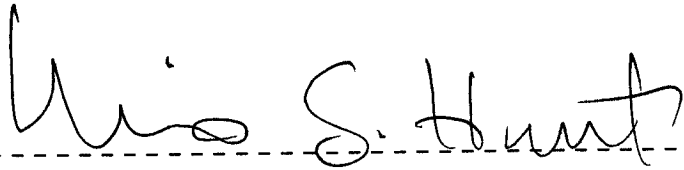
3  
4 I, Mina G. Hunt, do hereby certify that I  
5 am a Certified Reporter within the State of Arizona  
6 and Certified Shorthand Reporter in California.

7 I further certify that these proceedings  
8 were taken in shorthand by me at the time and place  
9 herein set forth, and were thereafter reduced to  
10 typewritten form, and that the foregoing  
11 constitutes a true and correct transcript.

12 I further certify that I am not related  
13 to, employed by, nor of counsel for any of the  
14 parties or attorneys herein, nor otherwise  
15 interested in the result of the within action.

16 In witness whereof, I have affixed my  
17 signature this 27th day of June, 2011.

18  
19  
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MINA G. HUNT, AZ CR No. 50619  
CA CSR No. 8335